

OP-ED REWRITE  
FDA/SLIPPERY SLOPE  
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It's time to put the emotional issues of youth smoking aside and examine rationally whether the Food and Drug Administration has any business regulating tobacco.

No one wants kids to smoke. But it is also important to consider whether a federal agency should be allowed to assume unprecedented control over an industry that manufactures and markets a legal product that millions of adult Americans use and enjoy.

Until now, Congress, the courts and the FDA have recognized a clear distinction between products intended and marketed for therapeutic purposes and those that are not. In the case of tobacco, the FDA is empowered to regulate the former, but not the latter, and no one has claimed that cigarettes or tobacco products have a therapeutic purpose.

If the FDA gets away with this illegal power grab, two consequences are likely to follow: first, total prohibition of tobacco products will not be far off; and second, the FDA is almost sure to attempt the same thing with another product it deems unhealthy.

Those who scoff at the possibility of prohibition must understand the FDA's legal mandate. The law forbids the FDA from permitting the sale of any drug or medical device under its jurisdiction unless the drug or device is proven "safe and effective."

FDA Commissioner David Kessler, like his predecessors, rightly has pointed out that cigarettes and tobacco products could never be considered "safe and effective." Therefore, FDA jurisdiction over tobacco must lead to outright prohibition.

While there are many who would say that's exactly what should happen to tobacco, millions of Americans -- smokers and non-smokers -- believe that adults should have the right to choose to smoke. If tobacco is regulated off the market, can prohibition of other "politically incorrect" products be far behind?

Many medical experts have pointed to the high levels of fat in the diets of Americans as a major cause of heart problems. There is little question that the health of the country could be significantly improved by cutting back on fatty foods. What would stop the FDA from attacking heart disease by regulating food containing fat content over a certain level?

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Will fast food franchises be the next FDA target? What about beer, wine and hard liquor?

Whether you believe that the FDA is trying to do the right thing to protect the health of Americans or prohibit minors from smoking makes no difference. Whatever the motivation, it is clear the FDA's plan to regulate tobacco would open the door to significantly greater -- and unwanted -- government intrusions into our lives.

Each of us draws the line in our own personal behavior and the choices we make in our daily lives. But where will that line be drawn once we allow government to restrict access to one product or another? It surely will be a slippery slope once we allow government to start dictating our personal behavior.

In addition, the FDA wants the tobacco industry to pay a \$150 million per year tax to fund an anti-smoking campaign. When unelected bureaucrats believe it is within their power to impose a tax of this magnitude on a disfavored industry, one begins to realize how far removed from reality and our democratic heritage the permanent Washington bureaucracy has become. Today, tobacco; tomorrow, what's next?

The American public is rightly concerned about the expansion of the federal government and erosion of our citizens' freedoms. The FDA's plan only fuels this concern. That the President has endorsed this scheme only makes matters worse.

Each time the government needlessly intrudes into the realm of personal choice, the greater the damage to our personal freedoms. That's a price that's too dear to pay, even if it means defending a politically incorrect product.

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